

APPEAL NO. 022650
FILED DECEMBER 5, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on October 3, 2002. The hearing officer determined that the respondent (claimant) sustained a compensable repetitive trauma injury to her right wrist; that the date of injury is _____, pursuant to Section 408.007; that the appellant (self-insured) is not relieved from liability under Section 409.002, because of the claimant's alleged failure to timely notify her employer pursuant to Section 409.001; and that the claimant had disability resulting from the compensable occupational disease beginning on June 21, 2002, and continuing through August 14, 2002. The self-insured appealed on sufficiency of the evidence grounds. Also, the self-insured pointed out that the hearing officer's conclusions of law contain a typographical error, namely that Conclusion of Law No. 6 is misnumbered as Conclusion of Law No. 4. The appeal file does not contain a response from the claimant.

DECISION

Affirmed, as reformed.

At the outset, we take note of the self-insured's observation that the hearing officer's conclusions of law contain a typographical error, namely that Conclusion of Law No. 6 is misnumbered as Conclusion of Law No. 4. We reform the second Conclusion of Law No. 4 by renumbering it as Conclusion of Law No. 6.

The hearing officer did not err in his determinations on the issues of occupational disease injury, date of injury, timely notice of injury, and disability. Section 401.011(34) provides that an occupational disease includes a repetitive trauma injury, which is defined in Section 401.011(36). Section 408.007 provides that the date of injury for an occupational disease is the date on which the employee knew or should have known that the disease may be related to the employment. Section 409.001(a) provides that, if the injury is an occupational disease, an employee or a person acting on the employee's behalf shall notify the employer of the employee of an injury not later than the 30th day after the date on which the employee knew or should have known that the injury may be related to the employment. Section 401.011(16) defines "disability" as the inability because of a compensable injury to obtain and retain employment at wages equivalent to the preinjury wage. Conflicting evidence was presented on the issues of occupational disease injury, date of injury, timely notice to the employer, and disability. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a), and as such may believe all, part, or none of the testimony of any witness. Aetna Insurance Company v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established from the evidence presented. We conclude that the hearing officer's determinations on the issues of

occupational disease injury, date of injury, timely notice to the employer, and disability are supported by sufficient evidence and are not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

We affirm, as reformed, the hearing officer's decision and order.

The true corporate name of the insurance carrier is **(a self-insured governmental entity)** and the name and address of its registered agent for service of process is

**CITY SECRETARY
(ADDRESS)
(CITY), TEXAS (ZIP CODE).**

Veronica Lopez
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Thomas A. Knapp
Appeals Judge